IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3370 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJNIKANT K PATHAK - Petitioner(s)

Versus

NATIONAL TEXTILES CORPORATION LTD. & 2 - Respondent(s)

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Appearance :

MR BB DESAI for Petitioner(s) : 1,
MR SI NANAVATI for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 15/02/2006

ORAL JUDGMENT

1.The petitioner has filed this petition under Article-226 of the Constitution of India praying for direction to the respondents in the

nature of mandamus and/or prohibition declaring that the minutes and decision taken by the Board of Directors in the Board Meeting whereby the age of retirement of employee not covered under the B.I.R Act, 1946 was reduced from 60 years to 58 years is arbitrary, unreasonable and violative of Articles 14 and 16 of the Constitution of India. The petitioner has also prayed for a declaration that the age of the superannuation of the petitioner is 60 years and the respondents cannot superannuate the petitioner at the age of 58 years.

2. This issue has come up before this Court earlier in the following cases :-

(1)LPA No.159 of 1985 in SCA No.984 of 1985, decided on 25.1.1993.

(2)LPA No.49 of 1987 in SCA No.488 of 1987 decided on 4.12.1998.

(3)SCA No.2708 of 1988 decided on 25.2.2000.

(4)SCA No.6559 of 1986 decided on 9.3.2000.

(5)SCA No.2988 of 1988 decided on 27.12.2001.

3.In earlier two matters, the decisions have been rendered by the Division Bench of this Court and in remaining three matters orders were passed by the learned Single Judge. The Court has consistently taken a view that Corporation by passing a resolution on 28.4.1986, removed confusion in the interpretation of rules. No right of individual was taken away. So far as age of superannuation was concerned, it specifically pointed out that in absence of age of superannuation in the appointment letter, the same should be treated as 58 years. In view of this resolution it was very clear that except pointing out age of superannuation, no right is taken away and, therefore, in view of the conditions mentioned in the letter of seniority list, the appellant was bound by the

same.

4.In LPA No.159 of 1985 this Court has observed that this Court while construing a statutory provision cannot travel beyond the explicit language of the provision, which has no ambiguity either in its verbalism or implication. The Court has, therefore, dismissed the said LPA. In SCA No.6559 of 1986 the Court has taken the view that the petitioner has raised various challenges. It was not necessary to enumerate them nor to deal with them in any details as the controversy raised in that case was squarely covered by the judgment dated 25.1.1993 of the Division Bench of this Court in LPA No.159/1985 in Special Civil Application No.948/85. The Court has further observed that there was no dispute about the fact that the petitioner was not a workman and, therefore, not a part of the

"Award Staff" and as per the office order the age of the retirement of the petitioner was 58 years. This controversy was squarely covered by the aforesaid judgment of the Division Bench in LPA No.159/85, and hence it was not necessary to say anything more and the petition was accordingly dismissed. In Special Civil Application No.2708 of 1988 the Court has passed the order on the same line.

5. Having regard to the aforesaid orders, the Court is of the view that the issue raised in the present petition is squarely covered by the aforesaid judgments and hence relief prayed for in the present petition cannot be granted. The petition is accordingly dismissed. Rule is discharged without any order as to costs.

(K. A. PUJ, J.)

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